

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

ROBERT CONYERS, JR., as personal
representative of the estate of
Davon Gillians,

Plaintiff,

v.

Case No.: 5:22-cv-115-TPB-PRL

FNU AYERS, FNU KITCHEN, FNU
PERKINS, FNU MOREY, FNU
KIRKENALL, and BRYAN ANTONELLI,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on consideration of the report and recommendation of Philip R. Lammens, United States Magistrate Judge, entered on July 20, 2023. (Doc. 52). Judge Lammens recommends that the pending motions to dismiss (Docs. 34; 35; 36; 37; 38; and 40) be granted because Plaintiff has failed to state a cognizable claim under *Bivens*.¹ On August 3, 2023, Plaintiff Robert Conyers, Jr., as personal representative of the estate of Davon Gillians, filed an objection. (Doc. 53). On August 17, 2023, Defendants filed responses to the objection. (Docs. 54; 55).

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*,

¹ *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1972).

681 F.2d 732 (11th Cir. 1982). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Castro Bobadilla v. Reno*, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), *aff'd*, 28 F.3d 116 (11th Cir. 1994) (table).

Upon due consideration of the record, including Judge Lammens's report and recommendation, the Court adopts the report and recommendation. The Court agrees with Judge Lammens's detailed and well-reasoned findings and conclusions. The objection does not provide a basis for rejecting the report and recommendation. Consequently, the motions to dismiss are due to be granted for failure to state a claim upon which relief may be granted.

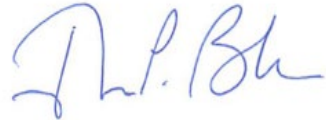
Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Judge Lammens's report and recommendation (Doc. 52) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) The motions to dismiss (Docs. 34; 35; 36; 37; 38; and 40) are **GRANTED** to the extent that the Court finds the amended complaint fails to state cognizable *Bivens* claims.

- (2) The Clerk is directed to terminate any pending motions and deadlines, and thereafter close this case.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 28th day of August, 2023.

A handwritten signature in blue ink, appearing to read "T. P. Barber", is positioned above a horizontal line.

TOM BARBER
UNITED STATES DISTRICT JUDGE